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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,845	08/14/2001	Teiji Yutaka	SCEI 3.0-076	9862
530	7590	01/04/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			HOGAN, MARY C	
			ART UNIT	PAPER NUMBER
			2123	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,845

Applicant(s)

YUTAKA, TEIJI

Examiner

Mary C Hogan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-37 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/17/03, 4/27/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This application has been examined.
2. **Claims 1-37** have been examined and rejected.

Claim Rejections - 35 USC § 112

3. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 1-37** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. **Claims 1-37** recite the following terms: “or not”, “within a range”, “advance or afterward” and “subsequently”. The use of the term “or not” makes the claim unclear as to what is being claimed. The term “within a range” is vague because it is unclear as to whether this range is directed to a range of numerical values and if so, what that range of values is. The use of the word “or” and “afterward” are unclear since it is unknown as to what “afterward” refers to. For example, “afterward” could refer to “after some instruction is processed” or “after the product is shipped”. The term “subsequently” renders the claim vague and indefinite because it is unclear as to whether the second area is read before the execution of said software or after the execution of said software.
6. **Claims 9-12 and 25-28** are vague and indefinite since the claims they depend on, Claims 5-8 and 21-24, recite the term “read selectively one of” a first, second and third change parameter which only requires one of the change parameters, and Claims 9-12 and 25-28 require all three change parameters. Therefore, it is unclear as to whether just one change parameter or all three change parameters are required.
7. **Claim 33** recites: “an emulation part, when incorporated in an information processing apparatus comprising means for, when software to be executed requests a change of a processing capability of said information processing apparatus, judging contents of said request and changing said processing capability, said emulation part forming in said information processing apparatus...”. This claim language is unclear as to what is being claimed, rendering the claim vague and indefinite.

Claim Interpretation

8. **Claims 9-12 and 25-28** are vague and indefinite since the claims they depend on, Claims 5-8 and 21-24, recite the term “read selectively one of” a first, second and third change parameter which only

requires one of the change parameters, and Claims 9-12 and 25-28 require all three change parameters. It is unclear as to whether just one change parameter or all three change parameters are required. The claims were therefore interpreted in light of Claims 5-8 and 21-24 to require one change parameter.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. **Claims 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33-37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Priem et al (U.S. Patent Number 5,577,232), herein referred to as **Priem**, further in view of Solari et al (U.S. Patent Number 5,617,576), herein referred to as **Solari**.

12. As to **Claims 1, 17 and 33-37**, **Priem** teaches: an emulation apparatus incorporated in an information processing apparatus without processing capability adjusting means, comprising: judging means for judging whether software executed by said information processing apparatus requests a change of a processing capability of said information processing apparatus or not (**column 4, lines 54-column 5, line 9**); adjusting means for changing a functional configuration of said information processing apparatus to a predetermined configuration when said software requests a change of a functional capability of said information processing apparatus (**Figure 2, column 4, lines 59-63**); changing the processing capability of said information processing apparatus, when said software requests the change of said processing

capability (**Figure 2, column 4, lines 59-63**); means for reading a first change parameter recorded in a predetermined recording medium in advance (**column 3, lines 9-13**); a first area which is read before execution of said software after starting of said information processing apparatus and records a code for allowing said information processing apparatus to recognize an type of software (**Figure 1, element 12**).

13. **Priem** does not expressly teach adjusting means for changing the processing capability of said information processing apparatus within a range identified by a predetermined change parameter for said software supplied in advance or afterward and a second area which is read subsequently to said first area and records a predetermined change parameter for identifying a changing part and a changing amount of said processing capability, said change parameter provided in said second area when said software requests a change of said processing capability.

14. **Solari** teaches a method of slowing down the execution of a microprocessor to enable the proper execution of code by which the user can input the desired execution rate, or change parameter, of the microprocessor in this slowed-down mode (**column 5, lines 24-58**). Further, **Solari** teaches an area which records a predetermined change parameter for identifying a changing part and a changing amount of said processing capability, said parameter provided when said software requests a change of said processing capability (**column 5, lines 42-58**). **Solari** teaches this method as a way to enable backward compatibility of applications written for older, slower microprocessors to work with newer, faster processors (**column 1, lines 19-30**).

15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the changing of processing capabilities as taught by **Priem** to include a range for the changing of the processing capability by the user since the method in **Solari** allows for older versions of software written for execution on an older, slower processor, to work on a newer, faster processor and since both **Priem** and **Solari** are directed to backward compatibility between versions of hardware and software in a computing environment.

16. As to **Claims 3 and 19**, **Priem and Solari** teach: wherein said judging means is configured so as to perform said judgment by identifying a medium that records said software (**Priem: column 4, lines 44-46, Solari: column Figure 1, element 24**).

17. As to **Claims 5, 7, 21, and 23**, **Solari** teaches: wherein said adjusting means is configured so as to read a third change parameter recorded in a rewritable recording medium loaded into said information processing apparatus afterward and change said processing capability within a range identified by the read change parameter (**column 5, lines 27-58**).

18. As to **Claims 9, 11, 25 and 27**, **Solari** teaches: reading the third change parameter (**column 5, lines 27-58**).
19. As to **Claims 13, 15, 29 and 31**, **Priem and Solari** teach: wherein the change parameter is determined for each of processing items implemented by the software, said processing items depending on functions of the information processing apparatus (**Priem: column 4, lines 57-63**), said judging means is configured so as to judge whether a processing item for which a change parameter is determined exists in any one of said internal recording medium, said non-rewritable recording medium and said rewritable recording medium and further judge that the software requests the change of said processing capability when said processing item exists (**Solari: Figure 2A, element 100**), and said adjusting means is configured so as to adjust a speed per unit time of processing identified by said processing item to a speed determined by said change parameter (**Solari: Figure 2, element 101**).
20. **Claims 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Priem and Solari** as applied to claim 1 above, and further in view of Miyamoto et al (U.S. Patent Number 6,132,315), herein referred to as **Miyamoto**.
21. As to **Claims 2 and 18**, **Priem and Solari** teach information processing apparatuses whose configurations are to change according to a type of software (**Priem: Figure 2, Solari: column 2, lines 57-66**); judging means that judge if said software requests the change of said processing capability (**Priem: Figure 2**), and adjusting means (**Priem: Figure 2, column 4, lines 59-63**).
22. As to **Claims 2 and 18**, **Priem and Solari** do not expressly teach wherein said information processing apparatus is an entertainment apparatus provided with a plurality of processors having a master-slave relationship.
23. As to **Claims 4 and 20**, **Priem and Solari** do not expressly teach wherein adjusting means is configured so as to change the processing capability of said information processing apparatus by automatically converting binary information included in said software to binary information executable by said information processing apparatus
24. **Miyamoto** teaches an information processing apparatus that is an entertainment apparatus provided with a plurality of processors having a master-slave relationship (**Figure 1 and description**) wherein the CPU of the host machine is far higher in processability than the CPU of the first machine (**column 12, lines 13-15**). **Miyamoto** teaches converting the program of the first machine into a program that will run on the host machine (**column 12, lines 4-8**), thereby converting binary data, since converting the data will increase the speed of the program written for the first machine and increase the player object moving speed or other game progression speeds (**column 12, lines 14-23**). **Miyamoto** teaches it is

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possible to play a game with functions higher than those of the first machine game software according to a host machine game software associated with first machine game content (**column 3, lines 18-23**).

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made that the method of information processing apparatuses configured so as to change according to a type of software as taught by **Priem and Solari** could be used for an entertainment apparatus including a plurality of processors having a master-slave relationship wherein binary data is converted to binary information executable on a host machine as taught by **Miyamoto** since **Miyamoto** teaches that the processor speeds of the first and host machines may be incompatible and that if the software of the slower first machine is made compatible to run on the faster host machine, it is possible to play a game with functions higher than those of the first, slower machine (**column 3, lines 18-23**).

26. **Claims 6, 8, 22 and 24** are rejected for the same reasons as **Claims 5, 7, 21 and 23**.

27. **Claims 10, 12, 26 and 28** are rejected for the same reasons as **Claims 9, 11, 25 and 27**.

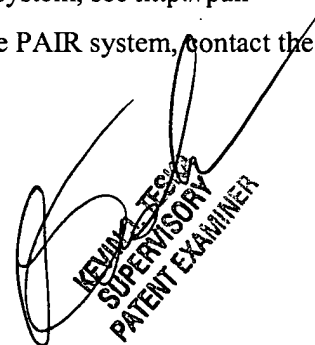
28. **Claims 14, 16, 30 and 32** are rejected for the same reasons as **Claims 13, 15, 29 and 31**.

Conclusion

29. The prior art made of record, see PTO 892, and not relied upon is considered pertinent to applicant's disclosure, careful consideration must be given prior to Applicant's response to this Office Action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary C Hogan whose telephone number is 571-272-3712. The examiner can normally be reached on 7:30AM-5PM Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 571-272-3716. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mary C Hogan
Examiner
Art Unit 2123


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